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7
8 BEFORE THE CALIFORNIA STATE WATER RESOURCES CONTROL BOARD

9
10 HEARING IN THE MATTER OF
11 CALIFORNIA DEPARTMENT OF WATER
RESOURCES AND UNITED STATES
12 BUREAU OF RECLAMATION REQUEST
FOR A CHANGE IN POINT OF
13 DIVERSION FOR CALIFORNIA WATER
FIX

**CALIFORNIA DEPARTMENT OF
WATER RESOURCES' RESPONSE TO
ISLANDS, INC. OBJECTIONS TO
DWR'S AND BUREAU'S CASE IN
CHIEF AND REQUESTS FOR
EXTENSION OF TIME FOR
OBJECTIONS**

14
15 **I. INTRODUCTION**

16 The California Department of Water Resources (DWR) files this response to
17 evidentiary objections made by Islands, Inc. (ISLANDS) to DWR and U.S. Bureau of
18 Reclamation's (Bureau collectively, Petitioners) Request for a Change in Point of
19 Diversion for the California Water Fix (CWF). ISLANDS has submitted 43 objections on
20 various grounds to certain aspects of the testimony and other evidence provided by
21 DWR. Of these 43 objections, 40 are identical, including objections to DWR 51,
22 DWR 52, DWR 53, DWR 57, DWR 58, DWR 60, DWR 61, DWR 62, DWR 64, DWR 66,
23 DWR 67, DWR 69, DWR 70, DWR 71, DWR 72, DWR 73, DWR 106, DWR 107,
24 DWR 113, DWR 116, DWR 117, DWR 201, DWR 203, DWR 212, DWR 213, DWR 214,
25 DWR 215, DWR 216, DWR 217, DWR 218, DWR 219, DWR 220, DWR 311, DWR 505,
26 DWR 507, DWR 511, DWR 512, DWR 513, DWR 514 and DWR 515.

1 **II. REQUEST FOR EXTENTION OF TIME PREVIOUSLY DECIDED**

2 On June 6, 2016, ISLANDS filed a Request for Extension of time to file and serve
3 Objections in Hearing on California Water Fix Water Rights Change Petition. The
4 Board's previous rulings set the schedule and have previously considered requests to
5 continue. The ISLANDS request should therefore be denied.

6 **III. EVIDENTIARY REQUIREMENTS FOR SWRCB HEARING**

7 California Code of Regulations section 648.5.1 sets forth the rules of evidence in
8 this hearing:

9 Adjudicative proceedings will be conducted in accordance with the
10 provisions and rules of evidence set forth in Government Code section
11 11513. Hearsay evidence is admissible subject to the provisions of
12 Government Code section 11513.

13 Government Code section 11513 provides liberal evidentiary rules for
14 administrative hearings. Parties need not follow the technical rules of evidence used in
15 courts. The standard for determining admissibility for evidence in an administrative
16 hearing centers on relevancy. Specifically, Government Code section 11513,
17 subdivision (c), provides:

18 The hearing need not be conducted according to technical rules relating to
19 evidence and witnesses, except as hereinafter provided. Any relevant
20 evidence shall be admitted if it is the sort of evidence on which
21 responsible persons are accustomed to rely in the conduct of serious
22 affairs, regardless of the existence of any common law or statutory rule
23 which might make improper the admission of the evidence over objection
24 in civil actions.

25 To the extent a party wishes to oppose testimony, the party is entitled to "cross-
26 examine opposing witnesses on any matter relevant to the issues even though that
27 matter was not covered in the direct examination" (Gov. Code sec. 11513(b).)

28 **IV. DWR'S EXPERT WITNESS TESTIMONY SATISFIES THE EVIDENTIARY
 STANDARD SET FORTH IN GOVERNMENT CODE SECTION 11513, AND
 SHOULD BE ADMITTED**

 DWR opposes the objections submitted by ISLANDS on the grounds that DWR's
written submissions demonstrate that as to those witnesses identified in DWR 51,

1 DWR 52, DWR 53, DWR 57, DWR 58, DWR 60, DWR 61, DWR 62, DWR 64, DWR 66,
2 DWR 67, DWR 69, DWR 70, DWR 71, DWR 72, and DWR 73, these witnesses are
3 qualified experts, may give opinion testimony, and have submitted relevant testimony
4 based on the issues identified in the Notice of Petition (Notice) for hearing by the
5 SWRCB on October 30, 2015. To the extent ISLANDS has questions about this
6 testimony and the exhibits, it will have the opportunity to cross-examine these witnesses
7 about their testimony and the exhibits. DWR incorporates herein by reference such
8 general objections regarding expert witnesses and evidence contained within DWR's
9 Master Response to Objections (all Sections) , filed July 20, 2016, and incorporated
10 herein by reference. DWR reserves the right to provide additional written and oral
11 responses to these objections and to respond to other objections that may be raised
12 later.

13 In addition to the response for the witnesses identified above, DWR further
14 opposes ISLANDS' objections to the witnesses identified in DWR 52, DWR 60, DWR 62,
15 DWR 64, DWR 67, DWR 69, DWR 70, DWR 72, and DWR 73, on the grounds that
16 these witnesses are offered to provide supplemental information as may be reasonable,
17 prudent, and in the interests of a fair hearing to inform the Hearing Officers on such
18 matters as may be raised during cross-examination which may be foundational and/or
19 which exceed the scope of the written and oral testimony of experts on direct which was
20 submitted in advance of the commencement of the hearing.

21 **V. DWR'S WRITTEN TESTIMONY AND EXHIBITS SATISFY THE**
22 **EVIDENTIARY STANDARD SET FORTH IN GOVERNMENT CODE**
23 **SECTION 11513, AND SHOULD BE ADMITTED**

24 DWR incorporates herein by reference such general objections regarding written
25 evidence contained within DWR's Master Response to Similar Objections Made by
26 Protestants Collectively (Master Response) filed on July 20, 2016, as may be applicable.
27 DWR reserves the right to provide additional written and oral responses to these
28 objections and to respond to other objections that may be raised later. DWR'S Specific

1 Response to ISLANDS' objections not otherwise addressed in DWR's Master Response
2 to Objections will be addressed in turn.

3 **A. DWR 1: Project Overview PowerPoint**

4 ISLANDS argues DWR 1 lacks foundation, and "improper opinion on water
5 rights injury." ISLANDS' objections do not undermine the relevancy of this
6 exhibit or its admissibility, but instead simply show that ISLANDS may disagree
7 with the contents and use in expert testimony. Such critiques go to the weight
8 of the evidence as opposed to its admissibility. Through the procedures
9 afforded by the evidentiary hearing, ISLANDS has the opportunity to cross-
10 examine Petitioner's witnesses on the sufficiency of the analyses, including the
11 project overview PowerPoint, and to provide rebuttal testimony. It is within the
12 expertise and purview of the Board to review the "scientific" evidence submitted
13 to determine whether such testimony is the sort of information on which a
14 responsible person would rely and the proper weight to afford such evidence.
15 (Government Code § 11513.) ISLANDS' objection to this evidence is without
16 merit and should be overruled.

17 **B. DWR 3: SWP Water Rights Powerpoint**

18 ISLANDS argues DWR 3 fails to address return flows, riparian rights, and
19 transportation losses. It is incumbent on Petitioner to submit evidence
20 supportive of the request which is the subject of this hearing. Petitioner is not
21 required to include specific evidence which Objectors may wish to have
22 included. [See February 11, 2016 Ruling at pages 2 - 3] ISLANDS' objections
23 do not undermine the relevancy of this exhibit or its admissibility, but instead
24 simply show that ISLANDS may disagree with its contents and use. Such
25 critiques go to the weight of the evidence as opposed to its admissibility.
26 Through the procedures afforded by the evidentiary hearing, ISLANDS has the
27 opportunity to cross-examine Petitioner's witnesses on the sufficiency of the
28 analyses, including the water rights PowerPoint, and to provide rebuttal

1 testimony. It is within the expertise and purview of the Board to review the
2 “scientific” evidence submitted to determine whether such testimony is the sort
3 of information on which a responsible person would rely and the proper weight
4 to afford such evidence. (Government Code § 11513.) ISLANDS’ objection to
5 this evidence is without merit and should be overruled.

6 **C. DWR 5: Modeling PowerPoint**

7 ISLANDS argues DWR fails to model riparian rights and fails to address drop in
8 water level of over 1.0 feet as it affects water right holders. It is incumbent on
9 Petitioner to submit evidence supportive of the request which is the subject of
10 this hearing. Petitioner is not required to include specific evidence which
11 Objectors may wish to have included. [See February 11, 2016 Ruling at pages
12 2 - 3]. ISLAND objections do not undermine the relevancy of this exhibit or its
13 admissibility under Government Code section 11513, but instead simply show
14 that ISLANDS may disagree with its contents and use. ISLANDs has the
15 opportunity to cross-examine all witnesses relying on this evidence, and it may
16 offer contrary evidence into the record, subject to review and objections by
17 other parties, if it wishes. ISLANDS’ objection to this evidence is without merit,
18 as this information is relevant to the issue of injury identified in the Notice.

19 **D. DWR 106: Blue Ribbon Task Force, Delta Vision**

20 ISLANDS’ objections do not undermine the relevancy of this exhibit or its
21 admissibility, but instead simply show that ISLANDS may disagree with its
22 contents and use. Such critiques go to the weight of the evidence as opposed
23 to its admissibility. Through the procedures afforded by the evidentiary hearing,
24 ISLANDS has the opportunity to cross-examine Petitioner’s witnesses on the
25 sufficiency of the analyses, including the Blue Ribbon Task Force, Delta Vision
26 report, and to provide rebuttal testimony. It is within the expertise and purview
27 of the Board to review the “scientific” evidence submitted to determine whether
28 such testimony is the sort of information on which a responsible person would

1 rely and the proper weight to afford such evidence. (Government Code
2 § 11513.) ISLANDS' objection to this evidence is without merit and should be
3 overruled.

4 **E. DWR 107: CAL FED ROD**

5 ISLANDS' objections do not undermine the relevancy of this exhibit or its
6 admissibility, but instead simply show that ISLANDS may disagree with its
7 contents and use. Such critiques go to the weight of the evidence as opposed
8 to its admissibility. Through the procedures afforded by the evidentiary hearing,
9 ISLANDS has the opportunity to cross-examine Petitioner's witnesses on the
10 sufficiency of the analyses, including the CAL FED ROD, and to provide rebuttal
11 testimony. It is within the expertise and purview of the Board to review the
12 "scientific" evidence submitted to determine whether such testimony is the sort
13 of information on which a responsible person would rely and the proper weight
14 to afford such evidence. (Government Code § 11513.) ISLANDS' objection to
15 this evidence is without merit and should be overruled.

16 **F. DWR 113: April 19, 2011 letter to Gerald Meral from SWRCB**

17 ISLANDS' objections do not undermine the relevancy of this exhibit or its
18 admissibility, but instead simply show that ISLANDS may disagree with its
19 contents and use. Such critiques go to the weight of the evidence as opposed
20 to its admissibility. Through the procedures afforded by the evidentiary hearing,
21 ISLANDS has the opportunity to cross-examine Petitioner's witnesses on the
22 sufficiency of the analyses, including the April 19, 2011 letter to Gerald Meral
23 from SWRCB, and to provide rebuttal testimony. It is within the expertise and
24 purview of the Board to review the "scientific" evidence submitted to determine
25 whether such testimony is the sort of information on which a responsible person
26 would rely and the proper weight to afford such evidence. (Government Code
27 § 11513.) ISLANDS' objection to this evidence is without merit and should be
28 overruled.

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G. DWR 116: Table of Operating Criteria

ISLANDS' objections do not undermine the relevancy of this exhibit or its admissibility, but instead simply show that ISLANDS may disagree with its contents and use. Such critiques go to the weight of the evidence as opposed to its admissibility. Through the procedures afforded by the evidentiary hearing, ISLANDS has the opportunity to cross-examine Petitioner's witnesses on the sufficiency of the analyses, including the table of operating criteria, and to provide rebuttal testimony. It is within the expertise and purview of the Board to review the "scientific" evidence submitted to determine whether such testimony is the sort of information on which a responsible person would rely and the proper weight to afford such evidence. (Government Code § 11513.) ISLANDS' objection to this evidence is without merit and should be overruled.

H. DWR 117: Adaptive Management Framework

ISLANDS' objections do not undermine the relevancy of this exhibit or its admissibility, but instead simply show that ISLANDS may disagree with its contents and use. Such critiques go to the weight of the evidence as opposed to its admissibility. Through the procedures afforded by the evidentiary hearing, ISLANDS has the opportunity to cross-examine Petitioner's witnesses on the sufficiency of the analyses, including the adaptive management framework, and to provide rebuttal testimony. It is within the expertise and purview of the Board to review the "scientific" evidence submitted to determine whether such testimony is the sort of information on which a responsible person would rely and the proper weight to afford such evidence. (Government Code § 11513.) ISLANDS' objection to this evidence is without merit and should be overruled.

I. DWR 201: 5-Agency Technical Recommendations for Location of BDCP Intakes 1-7

ISLANDS' objections do not undermine the relevancy of this exhibit or its admissibility, but instead simply show that ISLANDS may disagree with its

1 contents and use. Such critiques go to the weight of the evidence as opposed
2 to its admissibility. Through the procedures afforded by the evidentiary hearing,
3 ISLANDS has the opportunity to cross-examine Petitioner's witnesses on the
4 sufficiency of the analyses, including the 5-agency technical recommendations
5 for location of BDCP intakes 1-7, and to provide rebuttal testimony. It is within
6 the expertise and purview of the Board to review the "scientific" evidence
7 submitted to determine whether such testimony is the sort of information on
8 which a responsible person would rely and the proper weight to afford such
9 evidence. (Government Code § 11513.) ISLANDS' objection to this evidence
10 is without merit and should be overruled.

11 **J. DWR 203: Letter from DWR to Leslie Gallagher, Executive Officer,**
12 **Central Valley Flood Protection Board**

13 ISLANDS' objections do not undermine the relevancy of this exhibit or its
14 admissibility, but instead simply show that ISLANDS may disagree with its
15 contents and use. Such critiques go to the weight of the evidence as opposed
16 to its admissibility. Through the procedures afforded by the evidentiary hearing,
17 ISLANDS has the opportunity to cross-examine Petitioner's witnesses on the
18 sufficiency of the analyses, including the Letter to Leslie Gallagher, Executive
19 Officer, Central Valley Flood Protection Board, and to provide rebuttal
20 testimony. It is within the expertise and purview of the Board to review the
21 "scientific" evidence submitted to determine whether such testimony is the sort
22 of information on which a responsible person would rely and the proper weight
23 to afford such evidence. (Government Code § 11513.) ISLANDS' objection to
24 this evidence is without merit and should be overruled.

25 **K. DWR 212-217: Delta Habitat Conservation & Conveyance Program**
26 **– Conceptual Engineering Report, Volume 1, Figures 1-5**

27 ISLANDS' objections do not undermine the relevancy of this exhibit or its
28 admissibility, but instead simply show that ISLANDS may disagree with its

1 contents and use. Such critiques go to the weight of the evidence as opposed
2 to its admissibility. Through the procedures afforded by the evidentiary hearing,
3 ISLANDS has the opportunity to cross-examine Petitioner's witnesses on the
4 sufficiency of the analyses, including the Delta Habitat Conservation and
5 Conveyance Program Conceptual Engineering Report, Volume 1, Figures 1-5,
6 and to provide rebuttal testimony. It is within the expertise and purview of the
7 Board to review the "scientific" evidence submitted to determine whether such
8 testimony is the sort of information on which a responsible person would rely
9 and the proper weight to afford such evidence. (Government Code § 11513.)
10 ISLANDS' objection to this evidence is without merit and should be overruled.

11 **L. DWR 218: G. Buchholz Memo Groundwater Analysis**

12 ISLANDS' objections do not undermine the relevancy of this exhibit or its
13 admissibility, but instead simply show that ISLANDS may disagree with its
14 contents and use. Such critiques go to the weight of the evidence as opposed
15 to its admissibility. Through the procedures afforded by the evidentiary hearing,
16 ISLANDS has the opportunity to cross-examine Petitioner's witnesses on the
17 sufficiency of the analyses, including the G. Buchholz Memo on groundwater
18 analysis, and to provide rebuttal testimony. It is within the expertise and purview
19 of the Board to review the "scientific" evidence submitted to determine whether
20 such testimony is the sort of information on which a responsible person would
21 rely and the proper weight to afford such evidence. (Government Code
22 § 11513.) ISLANDS' objection to this evidence is without merit and should be
23 overruled.

24 **M. DWR 219: Fish Facilities Technical Memo July 15, 2011**

25 ISLANDS' objections do not undermine the relevancy of this exhibit or its
26 admissibility, but instead simply show that ISLANDS may disagree with its
27 contents and use. Such critiques go to the weight of the evidence as opposed
28 to its admissibility. Through the procedures afforded by the evidentiary hearing,

1 ISLANDS has the opportunity to cross-examine Petitioner's witnesses on the
2 sufficiency of the analyses, including the fish facilities technical memo of July
3 15, 2011, and to provide rebuttal testimony. It is within the expertise and
4 purview of the Board to review the "scientific" evidence submitted to determine
5 whether such testimony is the sort of information on which a responsible person
6 would rely and the proper weight to afford such evidence. (Government Code
7 § 11513.) ISLANDS' objection to this evidence is without merit and should be
8 overruled.

9 **N. DWR 220: California Water Fix Refinements**

10 ISLANDS' objections do not undermine the relevancy of this exhibit or its
11 admissibility, but instead simply show that ISLANDS may disagree with its
12 contents and use. Such critiques go to the weight of the evidence as opposed
13 to its admissibility. Through the procedures afforded by the evidentiary hearing,
14 ISLANDS has the opportunity to cross-examine Petitioner's witnesses on the
15 sufficiency of the analyses, including the California Water Fix Refinements, and
16 to provide rebuttal testimony. It is within the expertise and purview of the Board
17 to review the "scientific" evidence submitted to determine whether such
18 testimony is the sort of information on which a responsible person would rely
19 and the proper weight to afford such evidence. (Government Code § 11513.)
20 ISLANDS' objection to this evidence is without merit and should be overruled.

21 **O. DWR 311: Memorandum from Bob Suits to Paul Hutton**

22 ISLANDS' objections do not undermine the relevancy of this exhibit or its
23 admissibility, but instead simply show that ISLANDS may disagree with its
24 contents and use. Such critiques go to the weight of the evidence as opposed
25 to its admissibility. Through the procedures afforded by the evidentiary hearing,
26 ISLANDS has the opportunity to cross-examine Petitioner's witnesses on the
27 sufficiency of the analyses, including the Memorandum from Bob Suits to Paul
28

1 Hutton, and to provide rebuttal testimony. It is within the expertise and purview
2 of the Board to review the "scientific" evidence submitted to determine whether
3 such testimony is the sort of information on which a responsible person would
4 rely and the proper weight to afford such evidence. (Government Code
5 § 11513.) ISLANDS' objection to this evidence is without merit and should be
6 overruled.

7 **P. DWR 505: Cal Sim II Simulation of Historical SWP-CVP Operations**
8 **Technical Memorandum Report, 2003**

9 ISLANDS' objections do not undermine the relevancy of this exhibit or its
10 admissibility, but instead simply show that ISLANDS may disagree with its
11 contents and use. Such critiques go to the weight of the evidence as opposed
12 to its admissibility. Through the procedures afforded by the evidentiary hearing,
13 ISLANDS has the opportunity to cross-examine Petitioner's witnesses on the
14 sufficiency of the analyses, including the Cal Sim II Historical SWP-CVP
15 Operations Technical Memorandum Report, 2003, and to provide rebuttal
16 testimony. Cal Sim II is a widely-used model on which the Board itself has
17 relied in reaching past decisions. This objection is further addressed in Master
18 Response, Section E. It is within the expertise and purview of the Board to
19 review the "scientific" evidence submitted to determine whether such testimony
20 is the sort of information on which a responsible person would rely and the
21 proper weight to afford such evidence. (Government Code § 11513.)

22 ISLANDS' objection to this evidence is without merit and should be overruled.

23 **Q. DWR 507: Cal Sim II, San Joaquin River Peer Review Response, 2007**

24 ISLANDS' objections do not undermine the relevancy of this exhibit or its
25 admissibility, but instead simply show that ISLANDS may disagree with its
26 contents and use. Such critiques go to the weight of the evidence as opposed
27 to its admissibility. Through the procedures afforded by the evidentiary hearing,
28 ISLANDS has the opportunity to cross-examine Petitioner's witnesses on the

1 sufficiency of the analyses, including the Cal Sim II Historical SWP-CVP
2 Operations Technical Memorandum Report, 2003, and to provide rebuttal
3 testimony. Cal Sim II is a widely-used model on which the Board itself has
4 relied in reaching past decisions. This objection is further addressed in Master
5 Response, Section E. It is within the expertise and purview of the Board to
6 review the "scientific" evidence submitted to determine whether such testimony
7 is the sort of information on which a responsible person would rely and the
8 proper weight to afford such evidence. (Government Code § 11513.)

9 ISLANDS' objection to this evidence is without merit and should be overruled.

10 **R. DWR 511: Memo to C. Crothers Re Cal Sim II 82 vs 16 years**

11 ISLANDS' objections do not undermine the relevancy of this exhibit or its
12 admissibility, but instead simply show that ISLANDS may disagree with its
13 contents and use. Such critiques go to the weight of the evidence as opposed
14 to its admissibility. Through the procedures afforded by the evidentiary hearing,
15 ISLANDS has the opportunity to cross-examine Petitioner's witnesses on the
16 sufficiency of the analyses, including the Memo to C. Crothers re Cal Sim II 82
17 vs 16 years, and to provide rebuttal testimony. Cal Sim II is a widely-used
18 model on which the Board itself has relied in reaching past decisions. This
19 objection is further addressed in Master Response, Section E. It is within the
20 expertise and purview of the Board to review the "scientific" evidence submitted
21 to determine whether such testimony is the sort of information on which a
22 responsible person would rely and the proper weight to afford such evidence.
23 (Government Code § 11513.) ISLANDS' objection to this evidence is without
24 merit and should be overruled.

25 **S. DWR 512: Technical Memo Re CCWD Agreement**

26 ISLANDS' objections do not undermine the relevancy of this exhibit or its
27 admissibility, but instead simply show that ISLANDS may disagree with its
28 contents and use. Such critiques go to the weight of the evidence as opposed

1 to its admissibility. Through the procedures afforded by the evidentiary hearing,
2 ISLANDS has the opportunity to cross-examine Petitioner's witnesses on the
3 sufficiency of the analyses, including the Technical Memo Re CCWD
4 Agreement, and to provide rebuttal testimony. It is within the expertise and
5 purview of the Board to review the "scientific" evidence submitted to determine
6 whether such testimony is the sort of information on which a responsible person
7 would rely and the proper weight to afford such evidence. (Government Code
8 § 11513.) ISLANDS' objection to this evidence is without merit and should be
9 overruled.

10 **T. DWR 513: DSM2 Modeling Results**

11 ISLANDS objects to DWR 513 concerning DSM2 modeling results. DWR 513
12 is relevant to the testimony of DWR witness Parviz Nader-Tehrani (DWR 66) for
13 evaluation of changes in the water quality and water levels associated with the
14 CWF and any possible effects on the legal users of water. DSM2 is a one-
15 dimensional hydrodynamic and water quality simulation model used to simulate
16 hydrodynamics and water quality in the Sacramento-San Joaquin Delta, it is a
17 widely-used model, and one on which the Board itself has relied in reaching
18 past decisions. This objection is further addressed in Master Response,
19 Section E. ISLANDS' objections do not undermine the relevancy of this exhibit
20 or its admissibility, but instead simply show that ISLANDS may disagree with its
21 contents and use. Such critiques go to the weight of the evidence as opposed
22 to its admissibility. Through the procedures afforded by the evidentiary hearing,
23 ISLANDS has the opportunity to cross-examine Petitioner's witnesses on the
24 sufficiency of the analyses, and to provide rebuttal testimony. It is within the
25 expertise and purview of the Board to review the "scientific" evidence submitted
26 to determine whether such testimony is the sort of information on which a
27 responsible person would rely and the proper weight to afford such evidence.
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1 (Government Code § 11513.) ISLANDS' objection to this evidence is without
2 merit and should be overruled.

3 **U. DWR 514: Cal Sim II Modeling Results**

4 ISLANDS objects to DWR 514 concerning CalSim II modeling results. CalSim II
5 is a generalized water resources modeling system for evaluating operational
6 alternatives of large, complex river basins. CalSim II is the model used to
7 simulate California State Water Project/Central Valley Project (CVP) operations.
8 CalSim II is the latest version of CalSim available for use. It is a long-accepted
9 and widely-used model, on which the Board itself has relied in reaching past
10 decisions. Further, the relevance of DWR 514 includes, but is not limited to, the
11 testimony of DWR expert witness Armin Munevar (DWR 71) for evaluation of
12 impacts to water levels of storage facilities and to water deliveries by water
13 projects to the users of these waters. This objection is further addressed in
14 Master Response, Section E. ISLANDS' objections do not undermine the
15 relevancy of this exhibit or its admissibility, but instead simply show that
16 ISLANDS may disagree with its contents and use. Such critiques go to the
17 weight of the evidence as opposed to its admissibility. Through the procedures
18 afforded by the evidentiary hearing, ISLANDS has the opportunity to cross-
19 examine Petitioner's witnesses on the sufficiency of the analyses, and to
20 provide rebuttal testimony. It is within the expertise and purview of the Board to
21 review the "scientific" evidence submitted to determine whether such testimony
22 is the sort of information on which a responsible person would rely and the
23 proper weight to afford such evidence. (Government Code § 11513.)

24 ISLANDS' objection to this evidence is without merit and should be overruled.

25 **V. DWR 515: Modeling Assumptions Table**

26 ISLANDS' objections do not undermine the relevancy of this exhibit or its
27 admissibility, but instead simply show that ISLANDS may disagree with its
28 contents and use. Such critiques go to the weight of the evidence as opposed

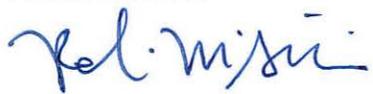
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to its admissibility. Through the procedures afforded by the evidentiary hearing, ISLANDS has the opportunity to cross-examine Petitioner’s witnesses on the sufficiency of the analyses, and to provide rebuttal testimony. It is within the expertise and purview of the Board to review the “scientific” evidence submitted to determine whether such testimony is the sort of information on which a responsible person would rely and the proper weight to afford such evidence. (Government Code § 11513.) ISLANDS’ objection to this evidence is without merit and should be overruled.

VI. CONCLUSION

For the reasons stated herein, the SWRCB should rule against ISLANDS’ objections to DWR’s testimony and evidence, and find that the testimony and evidence should not be precluded from admission.

Dated: July 22, 2016

CALIFORNIA DEPARTMENT OF WATER
RESOURCES

Robin McGinnis
Office of the Chief Counsel